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SUBJECT: 2003 Human Rights Report for Sri Lanka

Ref: State 214438

11. (U) Sensitive but Unclassified entire text.

12. (U) Following is the 2003 Country Human Rights report for Sri Lanka.

BEGIN TEXT:

13. (U) Sri Lanka is a democratic republic with an active multiparty system. The popularly elected president and 225-member Parliament share constitutional power. The Government and its agents generally respected the rule of law. From 1983 until 2001, the Government fought the Liberation Tigers of Tamil Eelam (LTTE), a terrorist organization fighting for a separate ethnic Tamil state in the north and east of the country. The LTTE is on the U.S.'s list of Foreign Terrorist Organizations. In December 2001, however, the Government and the LTTE each announced unilateral cease-fires. A formal ceasefire accord was signed by the two sides in February 2002. This historic process of reconciliation between the Government and the LTTE continued during 2002-03 in Norwegian-facilitated talks. After holding six rounds of talks, the LTTE withdrew from negotiations in April 2003, but the ceasefire accord continued to be observed by both sides. As a result of the peace process, there has been a sharp reduction in roadblocks and checkpoints around the country. In addition, approximately 300,000 internally displaced persons (IDPs) have returned to their points of origin in the north and east, and authorities have opened investigations into questionable actions by security force personnel.

Violence, including at least 50 deaths, and irregularities marred the December 2001 parliamentary elections in which the United National Front (UNF), a coalition of parties led by the United National Party (UNP), won a majority in Parliament for a six-year term. Stating that it feared possible infiltration by the LTTE, the Government prohibited more than 40,000 Tamil voters living in LTTE-controlled territories from crossing army checkpoints in order to vote. In 2003, the Supreme Court ruled that this action violated the fundamental rights of these prospective Tamil voters, and cited and fined the government for preventing citizens from exercising their right to vote. The next parliamentary elections are scheduled for 2007. President Chandrika Kumaratunga, head of the People's Alliance (PA) coalition, won reelection in 1999 for a second six-year term. The next Presidential elections are scheduled for 2005. The Government generally respected constitutional provisions for an independent judiciary.

The Ministry of Interior controls the 60,000-member police force, which has been used in military operations against the LTTE and is responsible for internal security in most areas of the country. In the past, the police paramilitary Special Task Force (STF) also engaged in military operations against the LTTE. The STF is also under Ministry of Interior control. The Ministry of Defense controls the 112,000-member Army, the 27,000-member Navy, and the 20,000-member Air Force. The more than 20,000 member Home Guards, an armed force drawn from local communities and responsible to the police, provides security for Muslim and Sinhalese village communities located near LTTE-controlled areas.

Sri Lanka is a low-income country with a market economy based mainly on the export of textiles, tea, rubber, coconuts, and gems. It also earns substantial foreign exchange from the repatriated earnings of citizens employed abroad, and from tourism. The population is approximately 19.4 million. Real GDP growth was 3.2 percent in 2002. Growth for 2003 was forecast at 5.5 percent. Early signs of a peace dividend were visible throughout the economy -- Sri Lanka has been able to reduce defense expenditures and begin to focus on getting its large, public sector debt under control. In addition, the economy has benefited from lower interest

rates, a recovery in domestic demand, increased tourist arrivals, a revival of the stock exchange, and increased foreign direct investment.

The Government generally respected the human rights of its citizens in 2003, but there were serious problems in some areas. Continuing the improvement seen last year, there were no reports of security forces committing extrajudicial killings and no reports of disappearances. However, the military and police reportedly tortured detainees, and there were reports of several deaths in custody. There were reports of rape while in custody, and prison conditions remained poor. There were no reports of arbitrary arrest during the year. During 2002, the Government released more than 750 Tamils held under the Prevention of Terrorism Act (PTA) and no new arrests under the PTA occurred in 2003. As of September 2003, only 65 Tamils held under the PTA remained in custody. Observers claim that the PTA, like the Emergency Regulations (ER) repealed in 2001, permitted arbitrary arrests of Tamils.

There were no reports that security forces harassed journalists in 2003. The LTTE permitted some access to the areas of the country it controlled to journalists. Some LTTE-imposed restrictions remained on freedom of movement, such as from Vavuniya to Jaffna. Violence and discrimination against women, child prostitution, child labor, and discrimination against persons with disabilities continued to be problems. There was some discrimination and occasional violence against religious minorities, and institutionalized ethnic discrimination against Tamils remained a problem. Trafficking in women and children for the purpose of forced labor occurred, and there was some trafficking of women and children for the commercial sex industry. The Government has taken firm steps against the children for sex trade and international involvement in the sex trade has declined significantly.

In the past few years, the Government has taken steps to address human rights concerns. In 2002, the Government named a new chairman for the National Human Rights Commission (HRC). In 2000, the Government established an Interministerial Permanent Standing Committee and an Interministerial Working Group on Human Rights Issues, chaired by senior officials, to investigate human rights abuses. At the same time, the Government established the Prosecution of Torture Perpetrators Unit, under the direct supervision of the Attorney General.

The LTTE continued to commit serious human rights abuses. The LTTE was responsible for arbitrary arrest, torture, harassment, disappearances, extortion, and detention. Through a campaign of intimidation, the LTTE continued to undermine the work of elected local government bodies in Jaffna. On occasion, the LTTE prevented political and governmental activities from occurring in the north and east. Most seriously, there is overwhelming evidence that the LTTE killed more than three dozen members of anti-LTTE Tamil political groups and alleged Tamil military informants during the year. There were also instances of intimidation of Muslims in the east by the LTTE, and there was fighting between LTTE personnel and Muslims that left several Muslims dead. The LTTE continued to control large sections of the north and east of the country. The LTTE denied those under its control the right to change their government, did not provide for fair trials, infringed on privacy rights, generally restricted freedom of movement, used child soldiers, and discriminated against ethnic and religious minorities.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

Unlike in previous years, there were no credible reports that security forces committed extrajudicial killings.

Security force impunity remained a problem. Between April 1995 and December 2001 when the peace process began, several hundred persons were killed or disappeared after being taken into security force custody. At year's end, the government continued to investigate five cases of rape, 50 cases of torture, and approximately 500 cases of disappearance allegedly committed by security force personnel. The Government passed indictments against security force personnel in several high profile cases, including the Bindunuwewa massacre, in which two security force personnel were convicted in 2003. Six security force personnel were convicted in the 1996 killing of university student

Krishanthi Kumaraswamy. In numerous other cases, military personnel may have committed human rights violations for which they have not been identified and brought to justice.

In December 2000, nine Tamil civilians were reported missing in Mirusuvil after being arrested by the Sri Lanka Army (SLA). One person escaped, and reported the incident to police and the local magistrate. The escapee identified two SLA soldiers as the perpetrators, and the soldiers admitted to torturing nine civilians and murdering eight of them. Nine soldiers later were arrested for the torture and killings. The army commander administratively punished the soldiers by having their salaries withheld (see Sections 1.b. and 1.c.). The case was transferred to the Anuradhapura Magistrate's Court for adjudication in November 2001. In November 2002, five members of the army were charged with the murders, and the trial continued in 2003.

In October 2000, local villagers killed 27 Tamil men and 15 others were injured at the Bindunuwewa rehabilitation camp for former child soldiers. The HRC stated that the police were guilty of "grave dereliction of duty." Police allegedly took part in the killings and did nothing to prevent the villagers from entering the detention camp. Violence after the killings continued for almost one week before police were able to restore order. Three of the survivors were able to testify at a Presidential Hearing, which met regularly throughout 2001. Many witnesses at the hearing criticized police actions at the scene and during the initial investigations. In 2001, all suspects in the case were released on bail. Due to the failure to show at the scheduled hearing in November 2002, the court remanded all suspects until completion of the trial. At the end of 2002, 10 police officers and 41 villagers were indicted and were standing trial. Twenty-three of the accused were acquitted on January 4, 2003. Five of the accused, including two police officers, were convicted and sentenced to death in July 2003. The sentences were immediately commuted to rigorous imprisonment, which is normal practice in Sri Lanka, of 23 years.

In previous years, some cases of extrajudicial killings were reprisals against civilians for LTTE attacks in which members of the security forces or civilians were killed or injured. In most cases, the security forces claimed that the victims were members of the LTTE, but human rights monitors believed otherwise. In Thampalakamam, near Trincomalee, in 1998, police and home guards allegedly killed eight Tamil civilians, apparently in reprisal for the LTTE bombing of the Temple of the Tooth a week earlier. The Government arrested police officers and home guards, charging four with murder and 17 with unlawful assembly. At the end of 2002, eight police officers had been indicted and hearings continued in 2003.

A court in 2000 ordered five soldiers arrested for the 1999 gang rape and murder of Ida Carmelita, a young Tamil girl. Court hearings into the case continued during 2003.

At his sentencing for the 1998 rape and murder of Krishanthi Kumaraswamy, a Tamil university student, former Lance Corporal Somaratne Rajapakse claimed knowledge of mass graves at Chemmani in Jaffna containing the bodies of up to 400 persons killed by security forces in 1996. The other five defendants corroborated his claim of mass graves in the Chemmani area, where they allegedly had buried between 120 and 140 bodies on the orders of their superiors. Exhumations in 1999 yielded 15 skeletons. Two of the victims were identified as young men who had disappeared in 1996. In 2001, 13 of the bodies had not been identified. Rajapakse and others named a total of 20 security force personnel, including former policemen, as responsible for the killings. The remaining unidentified bodies underwent DNA testing for identification purposes. The Attorney General's office has indicated that it was not satisfied with the inconclusive initial results and reportedly was searching for funds to provide for a more detailed test. All suspects in the case have been released on bail. The case remains pending in 2003.

In 1994, the PA Government began prosecutions in several extrajudicial killings allegedly committed by members of the security forces. The trial of 21 soldiers accused of massacring 35 Tamil civilians in 1992 in the village of Mailanthani in Batticaloa district was transferred to the Colombo High Court in 1996. Many witnesses for the case live in displaced persons camps, and could not come to court to give evidence. A jury trial, which began in January 2002, ended in November 2002 when the security forces were acquitted. In 2003, representatives of the victims requested that the Attorney General appeal the

jury's decision.

In the January 2000 killing of Tamil politician Kumar Ponnambalam, two key suspects were killed by unknown assailants in early 2003. Judicial proceedings continued with the remaining suspect in late 2003.

Although former paramilitary Tamil groups armed by and aligned with the former PA Government committed extrajudicial killings in the past, there were no credible reports of such killings during the year.

In the past, the military wing of the People's Liberation Organization of Tamil Eelam (PLOTE) and the Razeek group were responsible for killing a number of persons; however, there were no reports of such killings during the year. The security forces had armed and used these militias and a number of other Tamil militant organizations to provide information, to help identify LTTE terrorists, and, in some cases, to fight in military operations against the terrorists. The exact size of these militias was impossible to ascertain, but they probably totaled fewer than 2,000 persons. These groups were asked to disarm following the formal February 2002 ceasefire agreement between the Government and LTTE. The militia did hand over some weapons to the Government; however, most observers believe that the groups kept some arms. Persons killed by these militants in the past probably included LTTE operatives and civilians who failed to comply with extortion demands.

There is overwhelming evidence that the LTTE killed more than three dozen members of anti-LTTE Tamil political groups and alleged Tamil informants for the security forces during the year, mainly in the north and east of the country. Both current and former members of anti-LTTE Tamil political parties were targeted by the LTTE. In one high-profile case, the deputy leader of the Eelam People's Revolutionary Liberation Front (EPRLF) was shot and killed in Jaffna in June. The LTTE also targeted alleged Tamil informants to the military, killing several during the year. One Sri Lankan police officer was also killed in Colombo in an apparent LTTE attack.

Unlike in previous years, there were no attacks and counter-attacks between government forces and the LTTE during the year, although in two incidents in March and June 2003, the Sri Lankan Navy sank LTTE ships allegedly carrying weapons and ammunition. Several LTTE personnel were killed in each of the incidents. There were no reports of suicide bombings during the year.

#### Disappearance

There were no credible reports of disappearances at the hands of the security forces in 2003.

In 2001, the army, navy, police, and paramilitary groups were implicated in as many as 10 disappearances, primarily in Vavuniya. These cases were not confirmed. In December 2000, eight Tamil civilians were reported missing in Mirusuvil. Two SLA soldiers were identified as perpetrators and admitted to killing eight of the civilians. The soldiers were punished administratively by the army (see Sections 1.a. and 1.c.).

In February 2000, a fisherman seen arrested by naval personnel near Trincomalee disappeared. In 2002, the Trincomalee High Court ordered a police line up; however, the witness did not identify any of the suspects. At the end of 2002, the High Court was conducting a habeas corpus hearing in conjunction with the case. There were no further developments in this case in 2003.

Those who disappeared in 2001 and previous years usually were presumed dead. The 2000 U.N. Working Group on Enforced or Involuntary Disappearances lists the country as having an extremely large number of "nonclarified" disappearances. The Commander of the Army and the Inspector General of Police both criticized the disappearances and stated that the perpetrators would be called to account. Although there have been few prosecutions of security force personnel to date, during the year there were indictments and investigations, including the case against the security forces involved in the Bindunuwewa massacre and the killings in Mirusuvil.

The Attorney General's office successfully prosecuted four cases in 2002 involving members of the security forces on abduction and murder charges. In November 2002 the Government formed a new commission to investigate disappearances in Jaffna area during 1996 and 1997. The commission was expected to begin work in 2003, but did not take any action during the year.

A U.N. Working Group on Enforced or Involuntary Disappearances report, released in December 1999, cited the PTA and ER as important factors contributing to disappearances and recommended the abolition or modification of these laws to bring them into conformity with internationally accepted human rights standards. The ER was repealed in 2001 and there were no arrests under the PTA in 2002 or 2003; however, some arrests were being made without proper procedures and the Government had not released all persons detained under the PTA in previous years at year's end (see Section 1.d.). The reviewing process for some cases continued in 2003.

Tamil militias aligned with the former PA government also were responsible for disappearances in past years; however, there were no reports during the year. The HRC had no mandate or authority to enforce respect for human rights among these militia groups. It was impossible to determine the exact number of victims because of the secrecy with which these groups operated. These militias were largely disarmed by the Government in 2002.

The LTTE released 10 people in 2002, including some soldiers, to the International Committee of the Red Cross (ICRC). At year's end, the LTTE was not known to be holding any prisoners, but many observers believe that they are (see Section 1.g.).

#### Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Despite legal prohibitions, the security forces and police continued to torture and mistreat persons in police custody and prisons. The Convention Against Torture Act (CATA) made torture a punishable offense. Under the CATA, torture is defined as a specific crime which criminal conviction carries a 7-year minimum sentence. The High Court has jurisdiction over violations. However, according to a recent Amnesty International (AI) report and press release, the CATA does not implement several provisions of the U.N. Convention; this results in torture being prohibited under specific circumstances but allowed under others. Consequently, torture continued with relative impunity. In addition, the PTA makes confessions obtained under any circumstance, including by torture, sufficient to hold a person until they are brought to court. In some cases, the detention can extend for years.

Since 2000, the Government has been working on developing regulations to prosecute and punish military and police personnel responsible for torture. The Attorney General's Office and the Criminal Investigation Unit have established units to focus on torture complaints; the units forwarded 50 cases for indictments during the year, of which 20 resulted in indictments. The Interparliamentary Permanent Standing Committee and its Interministerial Working Group on Human Rights Issues continued to track criminal investigations of torture. In addition, the Government also ceased paying fines incurred by security force personnel found guilty of torture. Security force personnel have been fined under civil statutes for engaging in torture. According to the Attorney General's Office, members of the security forces and police had been prosecuted under criminal statutes, but none of the cases had come to conclusion.

Members of the security forces continued to torture and mistreat detainees and other prisoners, particularly during interrogation. Methods of torture included electric shock, beatings, suspension by the wrists or feet in contorted positions, burning, slamming testicles in desk drawers, and near drowning. In other cases, victims must remain in unnatural positions for extended periods or have bags laced with insecticide, chili powder, or gasoline placed over their heads. Detainees have reported broken bones and other serious injuries as a result of their mistreatment. There were reports of rape in detention during the year. Medical examination of persons arrested since 2000 continued to reveal multiple cases of torture.

In December 2000, the bodies of eight Tamils tortured and killed by the army in Mirusuvil were exhumed after an individual escaped and notified authorities. Nine soldiers were arrested, and by year's end, a trial had begun (see Sections 1.a. and 1.b.). The military also conducted its own inquiry, but the accused were discharged. Five soldiers were indicted in court, however, and were standing trial in 2003.

On March 15, 2002, Thivyran Krishnasamy, a student leader and an outspoken critic of the actions of security

forces in Jaffna, was released from custody. Human rights observers claim that he was arrested because of his political activism, but the police stated that he was connected to the LTTE. He had been arrested in July 2001 and, when he was brought before a court in August, he complained of being tortured. In support of his allegations of torture, the Jaffna Student Union held protests during the fall of 2001. In response, university administrators temporarily closed the university to avoid violence. There were no developments in this case in 2003.

During 2001, there were a number of reports of women being raped by security forces while in detention. One such case involved two women arrested in March 2001 in Mannar who claimed that they were tortured and repeatedly raped by naval and police personnel. The women were released on bail in April 2001 and filed charges against their assailants. At the end of 2002, the 14 accused were standing trial for rape, torture, or both. Two of the perpetrators in this case were acquitted in 2003. A fundamental rights case (see next paragraph) also was opened against the accused. Four other cases in which the security forces are accused of raping women in detention were still pending in 2003.

Under fundamental rights provisions in the Constitution, torture victims may file civil suit for compensation in the high courts or Supreme Court. Courts have granted awards ranging from approximately \$150 (14,200 rupees) to \$1,940 (182,500 rupees). However, most cases take two years or more to move through the courts.

Impunity remained a problem. In the majority of cases in which military personnel may have committed human rights abuses, the Government has not identified those responsible or brought them to justice.

At the invitation of the Government, the U.N. Committee on Torture sent a five-person mission to Colombo in 2000 to determine whether a systematic pattern of torture existed in the country and, if so, to make recommendations for eliminating the practice. In 2001 the mission had submitted its confidential report to President Kumaratunga. The report has not been released to the public.

In the past, Tamil militants aligned with the former PA government engaged in torture; however, there were no such reports in 2003.

The LTTE used torture on a routine basis.

Prison conditions generally were poor and did not meet international standards because of overcrowding and lack of sanitary facilities; however, the Government permitted visits by independent human rights observers. The Government permitted representatives from the ICRC to visit places of detention. The ICRC conducted 69 visits to 33 government detention facilities, including prisons and military jails in 2003. The HRC also visited 690 police stations and 96 detention facilities from January to September 2003 (see Section 1.d.).

Conditions also reportedly were poor in LTTE-run detention facilities. The ICRC conducted eight visits in LTTE-controlled detention facilities. Due to the release of detainees in 2000 and the apparent release of the remaining soldiers held by the LTTE in 2002, ICRC visited fewer LTTE detention centers than in previous years (see Section 1.d.).

#### Arbitrary Arrest, Detention, or Exile

There were no reports of arbitrary arrest and detention during the year. Under the law, authorities must inform an arrested person of the reason for arrest and bring that person before a magistrate within 24 hours. In practice, persons detained generally appear before a magistrate within a few days of arrest, who may authorize bail or order continued pretrial detention for up to three months or longer. Security forces must issue an arrest receipt at the time of arrest, and despite some efforts by the Government to enforce this standard, arrest receipts rarely were issued in previous years. Observers believed that the lack of arrest receipts in the past prevented adequate tracking of cases, which permitted extended detentions and torture without making any persons directly responsible for those detainees.

Under the ER and the PTA, security forces could detain suspects for extended periods of time without court approval. The ER, in force periodically since 1979 and in force island-wide from August 1998 until July 2001, gave security forces broad powers to arrest and detain

without charge or the right to judicial review. ER provisions permitted police to hold individuals for up to 90 days to investigate suspected offenses, although the police had to present detainees to a court within 30 days to record the detention. The court was able to order a further six months' detention.

In past years, the army generally turned over those it arrested under the ER to the police within 24 hours, although the police and the army did not always issue arrest receipts or notify the HRC within 48 hours. The HRC had a legal mandate to visit those arrested, and police generally respected this. Due to censorship and infrequent access, observers could not determine the state of affairs in LTTE-controlled areas.

There was an instance of large-scale arrests of Tamils in Colombo in June 2003, however, the vast majority of those arrested were released shortly thereafter. In the past, many detentions occurred during operations against the LTTE. Most detentions lasted a maximum of several days, but some extended to several months. As of September 1, 65 Tamils charged under the PTA remained in detention without bail awaiting trial. The Government released more than 750 Tamils arrested under the PTA during 2002.

Unlike in previous years, there were no reports of arbitrary arrests or searches of residents. In previous years, Tamils complained that they were abused verbally and held for extended periods at security checkpoints throughout Colombo. The vast majority of checkpoints were removed in 2002 and the reports of regular mistreatment by security forces largely ceased.

The Committee to Inquire into Undue Arrest and Harassment (CIUAH), which includes senior opposition party and Tamil representatives, examines complaints of arrest and harassment by security forces and takes remedial action as needed. Opinions on the effectiveness of the CIUAH were mixed. Some human rights observers believe that the work of the committee deterred random arrests and alleviated problems encountered by detainees and their families. Others felt that although the CIUAH continued to meet in 2003, it took no action during the year. The HRC investigated the legality of detention in cases referred to it by the Supreme Court and private citizens. Although the HRC is legally mandated to exercise oversight over arrests and detentions by the security forces and to undertake visits to prisons, members of the security forces sometimes violated the regulations and failed to cooperate with the HRC.

The Government continued to give the ICRC unhindered access to approximately 160 detention centers, police stations, and army camps recognized officially as places of detention. Due to the lapsing of the ER in July 2001, the total number of persons detained in military bases at any one time has been reduced dramatically, with the military making fewer arrests and transferring detainees to police facilities more quickly than in previous years. With the ceasefire agreement, the number of arrests by the military has dramatically declined.

The LTTE in the past has detained civilians, often holding them for ransom. There were reports of this practice during the year, particularly the multiple reports of kidnaping of Muslims in the east. The Muslims were usually released soon after being kidnapped and often after ransom was paid. At year's end, there were no reports of the LTTE holding Muslims in custody.

The Government does not practice forced exile, and there are no legal provisions allowing its use.

#### Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The President appoints judges to the Supreme Court, the high court, and the courts of appeal. A judicial service commission, composed of the Chief Justice and two Supreme Court judges, appointed, transferred, and dismissed lower court judges. Judges serve until the mandatory retirement age of 65 for the Supreme Court and 62 for other courts. Judges can be removed for reasons of misbehavior or physical or mental incapacity, but only after a legal investigation followed by joint action of the President and the Parliament.

In criminal cases, juries try defendants in public. Defendants may be represented by the counsel of their

choice, are informed of the charges and evidence against them, and have the right to appeal. The Government provides counsel for indigent persons tried on criminal charges in the high courts and the courts of appeal, but it does not provide counsel in other cases. Private legal aid organizations assisted some defendants. In addition, the Ministry of Justice operated 11 community legal aid centers to assist those who cannot afford representation and to serve as educational resources for local communities. However, these legal aid centers had tried no cases by the end of September 2003. There are no jury trials in cases brought under the PTA. Confessions, obtained by various coercive means, including torture, are inadmissible in criminal proceedings, but are allowed in PTA cases. Defendants bear the burden of proof to show that their confessions were obtained by coercion. Defendants in PTA cases have the right to appeal. Subject to judicial review in certain cases, defendants can spend up to 18 months in prison on administrative order waiting for their cases to be heard. Once their cases come to trial, decisions are made relatively quickly. In 2002, more than 750 PTA cases were dropped and the prisoners released.

Most court proceedings in Colombo and the south were conducted in English or Sinhala, which, due to a shortage of court-appointed interpreters, restricted the ability of Tamil-speaking defendants to get a fair hearing. Trials and hearings in the north and east were in Tamil and English, but many serious cases, including those having to do with terrorism, were tried in Colombo. While Tamil-speaking judges existed at the magistrate level, only four high court judges, an appeals court judge, and a Supreme Court justice spoke fluent Tamil. Few legal textbooks and only one law report existed in Tamil, and the Government has complied only slowly with legislation requiring that all laws be published in English, Sinhala, and Tamil.

In the past in Jaffna, LTTE threats against court officials sometimes disrupted normal court operations. Although the Jaffna court suspended activities due to security concerns in 2000, it reopened in 2001 and functioned continuously throughout 2003. During the year, the LTTE expanded the operations of its court system into areas previously under the Government's judicial system in the north and east. With the expansion, the LTTE demanded all Tamil civilians stop using the Government's judicial system and only rely on the LTTE's legal system. Credible reports indicated that the LTTE has implemented the change through the threat of force.

The LTTE has its own self-described legal system, composed of judges with little or no legal training. LTTE courts operate without codified or defined legal authority and essentially operate as agents of the LTTE rather than as an independent judiciary. The courts reportedly impose severe punishments, including execution.

The Government claimed that all persons held under the PTA are suspected members of the LTTE and therefore are legitimate security threats. Insufficient information existed to verify this claim and to determine whether these detainees are political prisoners. In many cases, human rights monitors questioned the legitimacy of the criminal charges brought against these persons. More than 750 PTA cases were dismissed by the Attorney General in 2002. The Attorney General's office expected a few more of the 65 remaining cases to be dismissed at year's end. The Government claimed that the cases that remained will be of those individuals directly linked to suicide bombings or other terrorist and criminal acts only.

The LTTE also reportedly holds a number of political prisoners. The number is impossible to determine because of the secretive nature of the organization. The LTTE refuses to allow the ICRC access to these prisoners.

#### Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for the right to privacy, and the Government generally respected this provision in practice; however, it infringed on citizen's privacy rights in some areas. The police generally obtained proper warrants for arrests and searches conducted under ordinary law; however, the security forces were not required to obtain warrants for searches conducted either under the now-lapsed ER or the PTA. The Secretary of the Ministry of Defense was responsible for



providing oversight for such searches. The Government was believed to monitor telephone conversations and correspondence on a selective basis. However, there were no reports of such activity by security forces during the year.

The Government removed the LTTE from proscription on September 4, 2002. This action by the Government meant members of the LTTE were no longer subject to arrest simply because of their status.

The LTTE routinely invaded the privacy of citizens by maintaining an effective network of informants. The LTTE also forcibly recruited children during the year (see Section 6.d). In 2003, the LTTE released 141 children. In late 2002, the LTTE handed over 85 children to UNICEF, stating that the children had volunteered to serve, but that the LTTE does not accept children (see Section 6.d). Unlike in previous years, there were no reports that the LTTE expelled Muslims from their homes.

#### Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

Hostilities between the Government and the LTTE abated with the announcement of unilateral ceasefires in December 2001, followed by a formal ceasefire accord agreed to in February 2002. Subsequently, a number of prisoners were released by both sides and the key road connecting Jaffna with the rest of the island was opened. The abatement of hostilities also led to a sharp reduction in roadblocks and checkpoints around the country, to the return of approximately 300,000 IDPs to their points of origin in the north and east, and to the opening of investigations into actions by security force personnel.

In April 2002, in Nilaveli, on the east coast, naval personnel opened fire and injured two Tamil women. The circumstances surrounding the incident remained unclear, and the investigation into the incident remained open at year's end. On October 10, 2002, seven civilians were killed when security force personnel fired into a crowd storming their compound in the east. Some observers claimed the security forces used excessive force in repelling a peaceful crowd that was demonstrating against the alleged harassment of LTTE cadre earlier in the day. Others claim the security forces were justified in repelling what appeared to be an LTTE-instigated attack.

In November 2001, the Sri Lanka Army created the Directorate of Human Rights and Humanitarian Law in the army. The directorate is charged with coordinating all human rights activities for the army from ICRC training classes (see Section 4) to overseeing the human rights cells that are assigned throughout the military. The SLA also states that all of its personnel have completed the appropriate training and pledged to adhere to the "rules of international Humanitarian Law." Early in 2002, the air force and navy instituted similar programs. The armed forces operated under written rules of engagement that severely restricted the shelling, bombardment, or other use of firepower against civilian-occupied areas. In 2003, the army instituted further mandatory human rights training programs for officers and enlisted personnel.

The Government continued to provide food relief, through the Commissioner General for Essential Services (CGES) and the Multi-Purpose Cooperative Societies (MCPS), to displaced and other needy citizens, including those in areas controlled by the LTTE. The Government delivered food rations to the Vanni area, an LTTE-controlled area in northern Sri Lanka, through a checkpoint that is controlled on one side by the security forces and on the other by the LTTE. The border into the territory controlled by the LTTE remained open during the year.

In previous years, NGOs and other groups that sought to take assistance-related items to the LTTE-controlled Vanni region needed permission from the Government. With the onset of the peace process, NGOs and assistance groups could move nearly all items into the LTTE-controlled areas without extensive Government oversight.

During 2002, the Ministry of Defense reported capturing several LTTE personnel with weapons in government-controlled areas in direct contradiction of the terms of the ceasefire agreement. The Government reportedly returned most LTTE personnel directly to the closest LTTE checkpoint. Some, however, were detained for longer periods. Previously the military sent the LTTE cadre it captured or who surrendered to rehabilitation centers. The ICRC continued to visit former LTTE members in

government rehabilitation camps, although the October 2000 massacre of more than 20 such detainees at a government-run detention facility at Bindunuwewa, near Bandarawella, led observers to question the continued security of residents of these facilities (see Sections 1.a. and 1.g.).

In view of the scale of hostilities in previous years and the large number of LTTE casualties, some observers have found the number of prisoners taken under battlefield conditions to be low and have concluded that many LTTE fighters apparently were killed rather than taken prisoner. Some observers believed that, on the government side, an unwritten "take-no-prisoners" policy had been in effect. The military denied this claim, stating that other factors limited the number of prisoners taken, such as the LTTE's efforts to remove injured fighters from the battlefield, the proclivity of its fighters to choose suicide over capture, and the LTTE's occasional practice of killing its own badly injured fighters. There were no reports of security forces personnel executing LTTE personnel during the year.

In previous years, the Government refused to permit relief organizations to provide medical attention to injured LTTE fighters, although it has offered to treat any LTTE injured entrusted to government care. According to credible reports, injured LTTE cadres surrendering to the Government received appropriate medical care.

The LTTE admitted that in the past it killed security forces personnel rather than take them prisoner. Past eyewitness accounts confirm that the LTTE executed injured soldiers on the battlefield. At year's end, the LTTE reportedly had released all security force personnel they were holding. The LTTE is believed to have killed most of the police officers and security force personnel it captured in past few years.

The LTTE routinely used excessive force in the war, including by targeting civilians. Since the peace process began in December 2001, the LTTE has engaged in kidnapping, hijackings of truck shipments, and forcible recruitment, including of children. The LTTE was widely believed by credible sources to have increased its recruitment during the year. There were intermittent reports through the year of children ranging in age from 13 to 17 escaping from LTTE camps. During 2003, the LTTE released 141 children (see Section 1.f). The Sri Lanka Monitoring Mission received approximately 130 complaints about child abductions since January 2003, and credible sources say those children are recruited to be child soldiers. High LTTE officials have alleged to foreign officials that child soldiers were "volunteers." In 2003, the LTTE and UNICEF reached an agreement on the demobilization and rehabilitation of child soldiers, and began work on an action plan which would address issues relating to child labor, including underage recruitment.

The LTTE expropriates food, fuel, and other items meant for IDPs, thus exacerbating the plight of such persons in LTTE-controlled areas. Malnutrition remained a problem in LTTE-controlled areas as well as in other parts of the Vanni region, with nutrition levels falling below the national average. Experts have reported a high rate of anemia and a low birth rate, both of which indicate lower levels of nutrition. Confirmed cases of malnutrition included hundreds of children.

Landmines were a serious problem in Jaffna and the Vanni and to some extent in the east (see Section 5). Landmines, booby traps, and unexploded ordnance pose a problem to resettlement of displaced persons and rebuilding. At the end of 2002, a U.N. team had begun coordinating the process of mapping the mined areas in the country and established oversight for a mine removal program. In 2003, a U.N. team established a landmine map database, which was shared throughout the 12 demining agencies that worked in Sri Lanka in 2003. During the year, the Sri Lankan Military and the LTTE removed mines in areas they controlled. State Department-sponsored humanitarian demining programs were active in clearing landmines in 2002 and 2003, and a major USG-funded demining training program for the Sri Lanka Army began in late 2003. The Government reported as many as 15 mine-related casualties among civilians per month during the year.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice in 2003. In the past, the Government

restricted these rights, often using national security grounds permitted by law. In 2002, criminal defamation laws, which had often been used by the Government to intimidate independent media outlets, were eliminated. In 2001, the Government officially lifted the censorship on war reporting. However, even when no specific government censorship is exercised, private television stations impose their own, informal censorship on international television news rebroadcast in the country.

Although the Government owns the country's largest newspaper chain, two major television stations, and a radio station, a variety of independent, privately owned newspapers, journals, and radio and television stations dominate the media. Most independent media houses freely criticized the Government and its policies. The Government imposes no political restrictions on the establishment of new media enterprises.

The President officially eased censorship restrictions on foreign journalists in a circular published in June 2000; however, material for publication or broadcast within the country, regardless of author, remained subject to government approval until the repeal of censorship laws in June 2001.

Human rights observers commented that in the past Tamils from the north or east who criticized the Sri Lankan military and Government often were harassed and sometimes arrested. They cite the case of Thiviyan Krishnasamy, a student leader in Jaffna and critic of the military in the Jaffna area. He was arrested in July 2001 and released in March 2002 (see Section 1.c.).

During the year, the defamation laws were repealed and all cases pertaining to the defamation laws were dropped.

The Sri Lanka Tamil Media Alliance (SLTMA) was formed in 1999 to protect the interests of Tamil journalists, who allege that they are subject to harassment and intimidation by Tamil paramilitary groups and Sri Lankan security forces. Regional Tamil correspondents working in the war zones have complained of arbitrary arrest and detention in the past and difficulty in obtaining press accreditation. The SLTMA has filed cases on behalf of Tamil journalists, but its cases have not yet succeeded in the courts.

The Press Complaints Commission of Sri Lanka was established during 2003 and is designed to provide a venue for citizens to bring complaints against media outlets. The Commission is set to begin full operations later this year.

Unlike in the previous year, travel by local and foreign journalists to conflict areas was not restricted. The LTTE does not tolerate freedom of expression. It tightly restricts the print and broadcast media in areas under its control. The LTTE has killed those reporting and publishing on human rights.

In 2002, two air force personnel were convicted of forcibly entering the home of a well-known journalist who reported regularly on defense matters and threatening him. The two received nine year sentences, were released on bail and continued to appeal the charge in 2003.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

The LTTE restricted academic freedom, and it has repressed and killed intellectuals who criticize it, most notably the moderate and widely respected Tamil politician and academic, Dr. Neelan Tiruchelvam, who was killed by a suicide bomber in July 1999. The LTTE also has severely repressed members of human rights organizations, such as the University Teachers for Human Rights (UTHR), and other groups. Many former members of the UTHR have been killed and others are in hiding.

#### Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the Government generally respected these rights in practice. Although the PTA may be used to restrict this freedom, the Government did not use the act for that purpose during the year. Numerous peaceful political and nonpolitical rallies were held throughout the country during the year.

In July 2001, the opposition held a rally that the Government claimed was illegal under the 1981 Referendum Act, which essentially states that rallies and

demonstrations of a political nature cannot be held when a referendum is scheduled. Security forces killed two persons when the Government confronted the rally with force, prompting further demonstrations. However, the Government generally grants permits for demonstrations, including those by opposition parties and minority groups.

On October 9, 2002, special task force police killed eight Tamil civilians during a protest in Akkaraipattu. Police and the commission tasked with investigating the incident claim that the crowd was trying to forcefully enter the police compound and the police were defending themselves. Tamils have disputed this finding, asserting that the protest was peaceful. In April 2001, a violent clash between the Sinhalese and Muslim communities occurred in Mawanella. The Muslim community protested alleged police inaction concerning an assault on a Muslim store clerk. In response, a group of Sinhalese attacked the Muslim protesters. As the conflict escalated, two Muslims were killed, and buildings and a few vehicles were destroyed. Police reportedly did nothing to stop the destruction of Muslim property. There were no further developments in the case during the year.

The LTTE does not allow freedom of association in the areas that it controls. The LTTE reportedly has used coercion to make persons attend rallies that it sponsors. On the Jaffna Peninsula, the LTTE occasionally has posted in public places the names of Tamil civilians accused of associating with security forces and other Government entities. The Jaffna Library, destroyed during the war, was reconstructed and was set to reopen in 2003, however, the LTTE prevented its reopening. The LTTE has killed Tamil civilians who have cooperated with the security forces in establishing a civil administration in Jaffna under a political leadership elected freely and fairly in January 1998.

#### Freedom of Religion

The Constitution accords Buddhism a foremost position, but it also provides for the right of members of other faiths to practice their religions freely, and the Government generally respected this right in practice. Despite the special status afforded by the Constitution to Buddhism, major religious festivals of all faiths are celebrated as public holidays.

Foreign clergy may work in the country, but the Government has sought to limit the number of foreign religious workers given temporary work permits. Permission usually is restricted to denominations registered with the Government. The Government has prohibited the entry of new foreign clergy on a permanent basis. It permitted those already in the country to remain.

Some evangelical Christians have expressed concern that their efforts at proselytizing often meet with hostility and harassment from the local Buddhist clergy and others opposed to their work. During the year, there were unconfirmed reports of assault on members of evangelical Christian groups by Buddhists. Evangelicals sometimes complain that the Government tacitly condones such harassment, but there is no evidence to support this claim.

Two developments in 2003 raised religious freedom concerns. In July 2003, the Supreme Court issued a ruling that the Constitution supports the right to practice religion, but does not support the right to proselytize. The Government is also reviewing a draft law that would prevent the forced conversion of Hindus. Christian groups have expressed deep concerns about these developments, asserting that the prevention of conversion is an effort to impinge on their religious right to proselytize.

In April 2001, four Sinhalese attacked a Muslim cashier. When the Muslim community protested police inaction, rioting Sinhalese confronted the Muslim persons, and two Muslims were killed. The police investigation into this incident remains open and no arrests have been reported. There were no developments in this case in 2003.

The LTTE expelled virtually the entire Muslim population from their homes in the northern part of the island in 1990. Most of these persons remain displaced. During the year, the LTTE leadership has met with the leaders of the Muslim community to discuss the peace process. In the past, the LTTE has expropriated Muslim homes, land, and businesses and threatened Muslim families with death if they attempt to return. The LTTE has made some conciliatory statements to the Muslim community, but

most Muslims view the statements with skepticism. There were also instances of intimidation of Muslims in the east by the LTTE in 2003, and there was fighting between LTTE personnel and Muslims that left several Muslims dead.

There continue to be reports of vandalism of buildings used by evangelical Christian groups, and members of these groups have reported incidents of harassment.

The LTTE attacked Buddhist sites, most notably the historic Dalada Maligawa or "Temple of the Tooth," the holiest Buddhist shrine in the country, in Kandy in January 1998. In May 2000, an LTTE bombing near a temple at the Buddhist Vesak festival in Batticaloa killed 23 persons and injured dozens of others.

The LTTE has been accused in the past of using church and temple compounds, where civilians were instructed by the Government to congregate in the event of hostilities, as shields for the storage of munitions.

For a more detailed discussion see the 2003 International Religious Freedom Report.

Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution grants every citizen "freedom of movement and of choosing his residence" and "freedom to return to [the country]," and the Government generally respected the right to domestic and foreign travel. However, in the past, the war with the LTTE prompted the Government to impose more stringent checks on travelers from the north and the east and on movement in Colombo, particularly after dark. Tamils had to obtain police passes to move freely in the north and east, and frequently they were harassed at checkpoints throughout the country. These security measures had the effect of restricting the movement of Tamils.

Starting in December 2001, most travel restrictions were lifted by the Government and this situation continued into 2003. Areas near military bases and high security zones still have limited access. Some observers claim the high security zones are excessive and unfairly claim Tamil lands, particularly in Jaffna. The LTTE limited travel on the road connecting Jaffna in the north to the rest of the country; however, in April 2002 the Government lifted all of its restrictions on travel to Jaffna.

By late 2001, there were over 800,000 IDPs in Sri Lanka. With the advent of the peace process, however, UNHCR reports that 310,000 IDPs have returned to their places of origin, leaving roughly 500,000 IDPs in the country. An estimated 65,000 Tamil refugees live in camps in Tamil Nadu in Southern India. Approximately 100,000 refugees may have integrated into Tamil society in India over the years. UNHCR reports that a small number may have returned from India during the year.

The LTTE has discriminated against Muslims, and in 1990 expelled some 46,000 Muslim inhabitants -- virtually the entire Muslim population -- from their homes in areas under LTTE control in the northern part of the island. Most of these persons remain displaced and live in or near welfare centers. There were credible reports that the LTTE has warned thousands of Muslims displaced from the Mannar area not to return to their homes until the conflict is over. However, it appeared that these attacks by the LTTE were not targeted against persons due to their religious beliefs, rather, it appeared that they were part of an overall strategy to clear the north and east of persons not sympathetic to the cause of an independent Tamil state. During the year, the LTTE has invited the Muslim IDPs to return home, asserting they will not be harmed. Although some Muslim IDPs have begun returning home, the vast majority have not and were instead waiting for a guarantee from the Government for their safety in LTTE-controlled areas. The LTTE occasionally disrupts the flow of persons exiting the Vanni region through the two established checkpoints. In particular the LTTE taxes civilians traveling through areas it controls. In the past, the LTTE disrupted the movement of IDPs from Trincomalee to Jaffna by hijacking or attacking civilian shipping, although there were no such reports this year. Humanitarian groups estimate that more than 200,000 IDPs live in LTTE-controlled areas (see Section 1.g.).

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees and

other humanitarian organizations in assisting refugees. The issue of the provision of first asylum did not arise during the year. The Government does not permit the entry of refugees into the country or grant first asylum, nor does it aid those who manage to enter to seek permanent residence elsewhere. There were no reports of the forced return of persons to a country where they feared persecution.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully. Citizens exercised this right in practice through multiparty, periodic, free and fair elections. Elections were held on the basis of universal suffrage; however, recent elections have been marred by violence and some irregularities. The country is a longstanding democratic republic with an active multiparty system. Power is shared between the popularly elected President and the 225-member Parliament. The right to change the government was exercised in the December 2001 parliamentary elections in which the United National Front, a coalition of parties led by the UNP, won a majority in Parliament for the next 6-year period. Stating that it feared possible infiltration by the LTTE, the Government prohibited more than 40,000 Tamil voters living in LTTE-controlled territories from crossing army checkpoints in order to vote. In 2003, the Supreme Court ruled that this action violated the fundamental rights of these prospective Tamil voters. The Supreme Court ruling cited and fined the commander of the Sri Lankan Army, the then-Commissioner of Elections, and the government for preventing citizens from exercising their right to vote. The commander of the Sri Lankan Army claimed he was following orders from the government based on information that the LTTE was planning to infiltrate government-controlled areas on election day.

Following elections held in December 2001, the UNP and its allies formed the new Government. The President's party, the PA, now leads the opposition in Parliament. Cohabitation ties between the President and Prime Minister have been difficult.

The President suspended Parliament from July to September 2001 out of concern that her coalition had lost its majority in Parliament because of defections. The suspension of Parliament angered opposition parties, which sponsored numerous demonstrations. One of these demonstrations, ended with the deaths of two marchers killed by security forces (see Section 2.b.). After further defections from her coalition, the President dissolved Parliament in October 2001, and called for elections to take place in December 2001.

On election day, December 5, 2001, 12 supporters of the Sri Lankan Muslim Congress were killed, allegedly by hired thugs of a PA candidate. Former PA MP Anuruddha Ratwatte and his two sons have been indicted for conspiring in the killings. In addition, 15 others, including security force personnel, were indicted for their alleged involvement in the murders. In June 2003, Ratwatte and 14 others were granted bail by a five-judge bench of the Supreme Court, setting aside the majority order of the High-Court-Trial-at-Bar. Despite an extremely violent campaign, including credible reports of the use of intimidation by both of the major parties, voter turnout exceeded 70 percent. The People's Alliance for Free and Fair Elections (PAFFREL) reported 755 incidents of violence and 49 deaths; the Center for Monitoring Election Violence (CMEV) reported 4,208 incidents, and 73 deaths; and the police reported 2,247 incidents, and 45 deaths connected to the 2001 elections.

In September 2001, the Parliament passed the 17th Amendment, which established an independent Commission on Elections (among other commissions), which is to be tasked with ensuring free and fair elections; however, implementing legislation has yet to be passed.

A delegation from the European Union monitoring the 2001 election expressed concern about violence and irregularities in the voting, but concluded that the election "did to a reasonable degree reflect the will of the electorate."

The Commissioner of Elections recognized 46 parties at the time of general elections in October 2000; only 13 parties actually held seats in the 225-member Parliament elected during 2001. The two most influential parties, the Sri Lanka Freedom Party (the principal component party of the governing PA coalition) and the UNP, generally draw their support from the majority Sinhalese

community. These two parties have alternated in power since independence.

There are 10 women in the 225-member Parliament. There was one in the Cabinet and two sat on the Supreme Court. In December 1999, a woman, Chandrika Kumaratunga, was elected President for a second term.

There are 28 Tamil and 24 Muslim persons in the 225 member Parliament elected in December 2001. The Parliament elected in October 2000 had 23 Tamil and 22 Muslim members.

The LTTE continued to refuse to allow elections in areas under its control, although it did not oppose campaigning by certain Tamil parties in the east during the December 2001 parliamentary elections. In previous years, the LTTE effectively had undermined the functioning of local government bodies in Jaffna through a campaign of killing and intimidation. This campaign included the killing of two of Jaffna's mayors and death threats against members of the 17 local councils. During the period of the conflict, the LTTE killed popularly elected politicians, including those elected by Tamils in areas the LTTE claimed as part of a Tamil homeland.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Several domestic human rights NGOs, including the Consortium of Humanitarian Agencies (CHA), the University Teachers for Human Rights, Jaffna (UTHR-J), the Civil Rights Movement (CRM), and the Law and Society Trust (LST), monitor civil and political liberties. There were no adverse regulations governing the activities of local and foreign NGOs, although the Government officially requires NGOs to include action plans and detailed descriptions of funding sources as part of its registration process. Some NGO workers have seen this as an attempt by the Government to exert greater control over the NGO sector after previous human rights groups' criticisms. Few NGOs complied with these new reporting requirements. A number of domestic and international human rights groups generally operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are cooperative and responsive to their views.

The Government continued to allow the ICRC unrestricted access to detention facilities (see Sections 1.c. and 1.d.). The ICRC provides international humanitarian law training materials and training to the security forces. The UNHCR, the ICRC, and a variety of international NGOs assisted in the delivery of medical and other essential supplies to the Vanni area (see Section 1.g.).

In the first six months of 2003, the HRC conducted 690 visits to police stations and 96 visits to detention facilities. The HRC has 2500 cases of alleged human rights abuse pending. The Commission's investigation into the allegations by former Lance Corporal Rajapakse about mass graves at Chemmani in Jaffna resulted in exhumations in 1999 that provided the basis for the ongoing case (see Section 1.a.). Many human rights observers recognized in 2003 that the new leader of the HRC was willing to confront other branches of the Government on human rights problems and new standard procedures. Activists have expressed some satisfaction with the HRC's leadership's prompt investigation into the November 2000 Bindunuwewa massacre.

#### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution provides for equal rights under the law for all citizens, and the Government generally respected these rights. The Supreme Court regularly upholds court rulings in cases in which individuals file suit over the abridgment of their fundamental civil rights. The HRC and the CIUAH are other mechanisms that the Government has established to ensure enforcement of constitutional provisions in addition to access to the courts (see Section 1.d.).

##### Women

Sexual assault, rape, and spousal abuse (often associated with alcohol abuse) continued to be serious and pervasive problems. Amendments to the Penal Code introduced in 1995 specifically addressed sexual abuse and exploitation, and modified rape laws to create a more equitable burden of proof and to make punishments more stringent. Marital rape is considered an offense

in cases of spouses living under judicial separation, and laws govern sexual molestation and sexual harassment in the workplace. While the Penal Code may ease some of the problems faced by victims of sexual assault, many women's organizations believe that greater sensitization of police and judicial officials is required. The Government set up the Bureau for the Protection of Children and Women within the police in 1994 to respond to calls for greater awareness and attention; however, there was no information on any actions taken by the Bureau nor on the number of crimes against women.

In 2003, the police have reported a total of 294 rape investigations in the country, and there were no reports of cases involving security force personnel. In the previous year, the police reported a total of 865 rape investigations in the country. In 2001 there were a number of reports of security forces raping women in custody (see Section 1.c.). In 2002, there was one such report. There have been no convictions in the cases involving security force personnel.

Although laws against procuring and trafficking were strengthened in 1995, trafficking in women for the purpose of forced labor occurs (see Section 6.f.).

The Constitution provides for equal employment opportunities in the public sector. However, women have no legal protection against discrimination in the private sector where they sometimes are paid less than men for equal work, often experience difficulty in rising to supervisory positions, and face sexual harassment. Women constitute approximately one-half of the formal work force.

Women have equal rights under national, civil, and criminal law. However, questions related to family law, including divorce, child custody, and inheritance, are adjudicated by the customary law of each ethnic or religious group. The minimum age of marriage for women was 18 years, except in the case of Muslims, who continue to follow their customary marriage practices. Different religious and ethnic practices often resulted in uneven treatment of women, including discrimination.

There are 10 women in the 225-member Parliament. There was one in the Cabinet and two sat on the Supreme Court. In December 1999, a woman, Chandrika Kumaratunga, was elected President for a second term.

#### Children

The Government is committed to protecting the welfare and rights of children, but is constrained by a lack of resources. The Government demonstrated this commitment through its extensive systems of public education and medical care. The law requires children between the ages of 5 and 14 to attend school. Approximately 85 percent of children under the age of 16 attend school. Education was free through the university level. Health care, including immunization, also was free.

In the period from January 1 to September 2003, the police recorded 214 cases of crimes against children, compared to 613 cases of crimes against children in 2002. Many NGOs attribute the problem of exploitation of children to the lack of law enforcement rather than adequate legislation. Many law enforcement resources were diverted to the conflict with the LTTE, although the police's Bureau for the Protection of Children and Women conducts investigations into crimes against children and women. In September 2002 the police opened an office to work directly with the National Child Protection Authority (NCPA) on children's issues to support NCPA investigations into crimes against children and to arrest suspects based on those investigations.

Under the law, the definition of child abuse includes all acts of sexual violence against, trafficking in, and cruelty to children. The law also prohibits the use of children in exploitative labor or illegal activities or in any act contrary to compulsory education regulations. The legislation further widened the definition of child abuse to include the involvement of children in war. The NCPA is comprised of representatives from the education, medical, retired police, and legal professions; it reports directly to the President.

The Government has pushed for greater international cooperation to bring those guilty of pedophilia to justice. The penalty for pedophilia is not less than five years and up to 20 years as well as an unspecified fine. Eleven cases of pedophilia were brought to court in 2003. There were no convictions for pedophilia during the year.



Child prostitution is a problem in certain coastal resort areas. The Government estimates that there are more than 2,000 active child prostitutes in the country, but private groups claim that the number is much higher (see Section 6.f.). The bulk of child sexual abuse in the form of child prostitution is committed by citizens; however, some child prostitutes are boys who cater to foreign tourists. Some of these children are forced into prostitution (see Section 6.f.).

The LTTE uses child soldiers and recruits children, sometimes forcibly, for use in battlefield support functions and in combat. LTTE recruits, some as young as 13, have surrendered to the military, and credible reports indicate the LTTE has stepped up recruiting efforts (see Section 1.g.). In May 1998, the LTTE gave assurances to the Special Representative of the U.N. Secretary General for Children in Armed Combat that it

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would not recruit children under the age of 17. The LTTE has not honored this pledge, and even after the ceasefire agreement there were multiple credible reports of the LTTE forcibly recruiting children (see Section 6.d.).

#### Persons with Disabilities

There was some discrimination against persons with disabilities in employment, education, or in the provision of other state services. The law does not mandate access to buildings for persons with disabilities. The World Health Organization estimates that 7 percent of the population consisted of persons with disabilities. The Department of Social Services operated eight vocational training schools for persons with physical and mental disabilities and sponsored a program of job training and placement for graduates. The Government also provided some financial support to NGOs that assist persons with disabilities; subsidized prosthetic devices and other medical aids for persons with disabilities; made some purchases from suppliers with disabilities; and has registered 74 schools and training institutions for persons with disabilities run by NGOs. The Department of Social Services has selected job placement officers to help the estimated 200,000 work-eligible persons with disabilities find jobs. In spite of these efforts, persons with disabilities still face difficulties because of negative attitudes and societal discrimination. The law forbids discrimination against any person on the grounds of disability. No cases were known to have been filed under this law.

#### Indigenous People

The country's indigenous people, known as Veddas, number fewer than 1,000. Some prefer to maintain their isolated traditional way of life, and they are protected by the Constitution. There are no legal restrictions on their participation in the political or economic life of the nation. In 1998 the Government fulfilled a long-standing Vedda demand when the President issued an order granting Veddas the right to hunt and gather in specific protected forest areas. The executive order granted the Veddas the freedom to protect their culture and to carry on their traditional way of life without hindrance. Under a pilot program, Veddas received special identity cards to enable their use of these forest areas. Some Veddas still complain that they are being pushed off of their land.

#### National/Racial/Ethnic Minorities

There were approximately one million Tamils of comparatively recent Indian origin, the so-called "tea estate" Tamils or "Indian" Tamils, whose ancestors originally were brought to the country in the 19th century to work on plantations. Approximately 75,000 of these persons do not qualify for either Indian or Sri Lankan citizenship and face discrimination, especially in the allocation of government funds for education. Without national identity cards, they also were vulnerable to arrest by the security forces. However, the Government has stated that none of these persons would be forced to depart the country. During 1999, the Government introduced a program to begin registering these individuals; 15,300 tea estate Tamils received identity cards between January and September 2001. Some critics charged that the program did not progress fast enough. In 2003, legislation was pending in the Parliament that would grant citizenship to a large number of these "tea estate" Tamils.

Both Sri Lankan and "tea estate" Tamils maintained that they long have suffered systematic discrimination in university education, government employment, and in

other matters controlled by the Government.

## Section 6 Worker Rights

### a. The Right of Association

The Government respects the constitutional right of workers to establish unions, and the country has a strong trade union tradition. Any seven workers may form a union, adopt a charter, elect leaders, and publicize their views; however, in practice such rights can be subject to administrative delays, and unofficially are discouraged. Nonetheless, approximately 20 percent of the 6.4 million person work force nationwide and more than 70 percent of the plantation work force, which is overwhelmingly Hill Tamil, is unionized. In total there were about more than 1,000,000 union members. Approximately 15-20 percent of the nonagricultural work force in the private sector was unionized. Trade union membership data reported by the Sri Lankan Department of Labor of was incomplete. Unions represent most workers in large private firms, but those in small-scale agriculture and small businesses usually do not belong to unions. Public sector employees are unionized at very high rates.

Most large unions are affiliated with political parties and play a prominent role in the political process, though major unions in the public sector are politically independent. More than 30 labor unions have political affiliations, but there are also a small number of unaffiliated unions, some of which have active leaders and a relatively large membership. The Ministry of Labor registered 154 new unions and canceled the registration of 154 others, bringing the total number of functioning unions to 1,513. About 500 unions are considered to be active. The Ministry of Labor is authorized by law to cancel the registration of any union that does not submit an annual report. This requirement was the only legal grounds for cancellation of registration.

In 1999 Parliament passed an amendment to the Industrial Disputes Act (IDA), which required employers to recognize trade unions and the right to collective bargaining. The law prohibits antiunion discrimination. This law is being implemented. Employers found guilty of discrimination must reinstate workers fired for union activities but may transfer them to different locations. Anti-union discrimination is a punishable offense liable for a fine of Rs 20,000 (approx \$200).

In 2002 the AFL-CIO unsuccessfully petitioned USTR to withdraw Generalized System of Preferences (GSP) privileges, based on violations of Freedom of Association. In 2003, a complaint was filed in the ILO Freedom of Association Committee by the International Confederation of Free Trade Unions (ICFTU), based upon a flawed referendum in an Export Processing Zone (EPZ) facility. Unions may affiliate with international bodies, and some have done so. The Ceylon Workers Congress, composed exclusively of Hill Tamil plantation workers, is the only trade union organization affiliated with the ICFTU, although a new trade union in the Biyagama EPZ is affiliated with the Youth Forum of the ICFTU. No national trade union center exists to centralize or facilitate contact with international groups.

### The Right to Organize and Bargain Collectively

The law provides for the right to collective bargaining; however, very few companies practice it. Currently, about 50 companies belonging to the Employers' Federation of Ceylon have collective agreements. All collective agreements have to be registered at the Department of Labor. Between 2000 and 2002, 121 collective agreements were registered.

In 1999 Parliament passed an amendment to the IDA which requires employers to recognize trade union activities and the right to collective bargaining. The law prohibits anti-union discrimination. Only about seven unions are active in EPZs, partially because of severe restrictions on access by union organizers to the zones. In order to give effect to the IDA and ILO conventions on collective bargaining and trade union activity, the Board of Investment (BOI) issued a new labor standards manual in October 2002 instructing BOI companies, including those in EPZs, to recognize Trade Union activities and the right to collective bargaining. According to the manual, where both a recognized trade union with bargaining power and a non-union worker council exist in an enterprise, the trade union will represent the employees in collective bargaining.

Following these developments, three companies in BOI-managed EPZs have recognized trade unions.

In BOI enterprises without unions, including those in the EPZs, worker councils--composed of employees, employers and often a public sector representative--generally provide the forums for labor and management negotiation. According to the new BOI labor manual and BOI sources, the councils have the power to negotiate binding collective bargaining contracts, although no such contracts have been signed to date. Labor advocates have criticized the employees' councils as ineffective worker representatives.

All workers, other than police, armed forces, prison service and workers in "essential" services, have the right to strike. By law workers may lodge complaints with the Commissioner of Labor, a labor tribunal, or the Supreme Court to protect their rights. These mechanisms were effective and new reforms placed limits on the amount of time allowed to resolve arbitration cases; however, there continued to be substantial backlogs in the resolution of cases. In the past, the Government periodically has controlled strikes by declaring some industries essential under the ER (which lapsed in 2000). The President retains the power to designate any industry as an essential service. The ILO has pointed out to the Government that essential services should be limited to services where an interruption would endanger the life, personal safety, or health of the population.

Civil servants may submit labor grievances to the Public Service Commission (PSC). If not satisfied with PSC decisions, they may appeal to the Administrative Appeals Commission set up in July 2003, under the 17th Amendment to the Sri Lanka Constitution. They can also seek protection under fundamental rights protection provisions in the Constitution and make submission to the Supreme Court. Government workers in the transportation, medical, educational, power generation, financial, and port sectors have staged brief strikes and other work actions in the past few years. There were numerous public sector strikes during the year.

The law prohibits retribution against strikers in nonessential sectors. Employers may dismiss workers only for disciplinary reasons, mainly misconduct. Incompetence or low productivity were not grounds for dismissal. Dismissed employees have a right to appeal their termination before a labor tribunal.

There were approximately 125,000 workers employed in 12 EPZs/Industrial Parks run by the BOI, a large percentage of them women. Under the law, workers in the EPZs have the same rights to join unions as other workers. Few unions have formed in the EPZs, partially because of severe restrictions on access by union organizers to the zones. While the unionization rate in the rest of the country is approximately 25 percent, the rate within the EPZs was under 10 percent. Labor representatives alleged that the Government's BOI, which manages the EPZs, including setting wages and working conditions in the EPZs, has discouraged union activity. The short-term nature of employment and relatively young workforce in the zones makes it difficult to organize. Labor representatives alleged that worker councils in the EPZs only have the power to make recommendations. The recent BOI manual stated Employees' Councils could represent workers in collective bargaining and industrial disputes. Labor representatives alleged that the Labor Commissioner, under BOI pressure, had failed to prosecute employers who refuse to recognize or enter into collective bargaining with trade unions. While employers in the EPZs generally offer higher wages and better working conditions than employers elsewhere, workers face other concerns, such as security, expensive but low quality boarding houses, and sexual harassment. Some employers in the EPZs and factories located outside the Western Province have established boarding houses and provide transport. In most instances, wage boards establish minimum wages and conditions of employment, except in the EPZs, where wages and work conditions are set by the BOI.

#### Prohibition of Forced or Bonded Labor

The law prohibits forced or bonded labor; however, there were reports that such practices occurred. ILO Convention 105 was ratified in 2003. The law does not prohibit forced or bonded labor by children specifically, but government officials interpret it as applying to persons of all ages (see Section 6.d.). There were credible reports that some rural children were employed in debt bondage as domestic servants in urban households, and there were numerous reports that

some of these children had been abused.

#### Status of Child Labor Practices and Minimum Age for Employment

The law prohibits labor by children under 14 years of age, but child labor still exists in the informal sectors. The NCPA combats the problem of child abuse, including unlawful child labor. The Ministry of Labor is the competent authority to set regulations and carry out implementation, and monitoring. The minimum age for employment is 14, although the law permits the employment of younger children by their parents or guardians in limited family agriculture work or to engage in technical training. A recent amendment to the Employment of Women and Youth Act (EWYC) prohibited all other forms of family employment of children below 14. The Compulsory Attendance at Schools Act, which requires children between the ages of 5 and 14 to attend school, has been in effect since January 1998, although it still is being implemented. A child activity survey carried out in 1998 and 1999 by the Department of Census and Statistics found almost 11,000 children between the ages of 5 and 14 working full time and another 15,000 engaged in both economic activity and housekeeping. The survey found 450,000 children employed by their families in seasonal agricultural work.

The EWYC and the Factories Ordinance govern employment of young person between 14 and 18 years of age. Persons under age 18 may not be employed in any public enterprise in which life or limb is endangered. There are no reports that children are employed in the EPZs, the garment industry, or any other export industry, although children sometimes are employed during harvest periods in the plantation sectors and in non-plantation agriculture. The Trade Union Ordinance of 1935 allows membership only from the age of 16.

Many thousands of children were believed to be employed in domestic service, although this situation is not regulated or documented. A 1997 study reported that child domestic servants are employed in 8.6 percent of homes in the Southern Province. The same study reported that child laborers in the domestic service sector often are deprived of an education. Many child domestics reportedly are subjected to physical, sexual, and emotional abuse.

Regular employment of children also occurs in family enterprises such as family farms, crafts, small trade establishments, restaurants, and repair shops. Government inspections have been unable to eliminate these forms of child labor (see Section 5), although an awareness campaign coupled with the establishment of hot lines for reporting child labor has led to an increase in the prosecutions regarding child labor violations by the Labor Department. The Labor Department reported 161 complaints regarding child labor in 2002, with 72 of these cases withdrawn due to lack of evidence or faulty complaints. The Department prosecuted 23 cases during the year. In the first 7 months of 2003, the Labor Department reported 102 complaints, with 14 cases withdrawn and 23 prosecuted. According to the Ministry of Labor, there were 26 prosecutions for child labor (below the age of 14) during 2002. Penalties for employing minors were increased from about \$11 (1,000 rupees) and/or 6 months imprisonment to \$100 (Rs. 10,000) and/or 12 months imprisonment.

Although forced or bonded labor by persons of any age is prohibited by law, some rural children reportedly have served in debt bondage (see Sections 5 and 6.c.).

The LTTE continued to use high school-age children for work as cooks, messengers, and clerks. In some cases, the children reportedly help build fortifications. In the past, children as young as age 10 were said to be recruited and placed for 2 to 4 years in special schools that provided them with a mixture of LTTE ideology and formal education. The LTTE uses children as young as 13 years of age in battle, and children sometimes are recruited forcibly into the LTTE (see Section 5). A program of compulsory physical training, including mock military drills, for most of the population of the areas that it controls, including for schoolchildren and the aged reportedly still functions. According to LTTE spokesmen, this work is meant to keep the population fit; however, it is believed widely that the training was established to gain tighter control over the population and to provide a base for recruiting fighters. Despite repeated claims to the contrary by the LTTE, there were credible reports that the LTTE continued to recruit forcibly children throughout the year. Individuals or small groups of children

intermittently turned themselves over to security forces or religious leaders saying they had escaped LTTE training camps throughout the year. In 2003, the LTTE released 141 children. In late 2002, the LTTE handed over 85 children to UNICEF, stating that the children had volunteered to serve, but that the LTTE does not accept children.

#### Acceptable Conditions of Work

While there is no universal national minimum wage, approximately 40 wage boards set up by the Department of Labor set minimum wages and working conditions by sector and industry. These minimum wages do not provide a decent standard of living for a worker and family, but the vast majority of families have more than one breadwinner. The Ministry of Labor effectively enforces the minimum wage law for large companies through routine inspections; however, staffing shortages prevent the department from effectively monitoring the informal sector. The Department of Labor did not report average minimum wage rates for 2002. The minimum wage in the garment industry was approximately \$27 (Rs. 2,800) per month. The minimum wage in the hotel industry was approximately \$20 (Rs. 2,100).

In July 2002, the daily wage rate (fixed by a collective agreement) in the tea plantations managed by plantation management companies was increased from Rs. 121 to Rs. 147. In the rubber sector, the daily wage was raised from Rs. 112 to Rs. 131.

Most permanent full-time workers are covered by laws that prohibit them from regularly working more than 45 hours per week (a 5 1/2-day workweek). Overtime has been increased to 100 hours per year from 60 hours per month under a recent ruling. Labor organizers are concerned that the new legislation does not include a provision for overtime to be done with the consent of the worker. These workers also receive 14 days of annual leave, 14 to 21 days of medical leave, and approximately 20 local holidays each year. Maternity leave is available for permanent and seasonal or part-time female workers. Several laws protect the safety and health of industrial workers, but the Ministry of Labor's small staff of inspectors is inadequate to enforce compliance with the laws. Health and safety regulations do not meet international standards. Workers have the statutory right to remove themselves from situations that endanger their health, but many workers are unaware of, or indifferent to, health risks, and fear that they would lose their jobs if they removed themselves.

#### Trafficking in Persons

The law prohibits trafficking in persons; however, Sri Lanka is a country of origin and destination for trafficked persons, primarily women and children for the purposes of forced labor, and for sexual exploitation. Sri Lankan women travel to Middle Eastern countries to work as domestics, and some have reported being forced into domestic servitude and sexual exploitation. A small number of Thai, Russian, and Chinese women have been trafficked to Sri Lanka for purposes of sexual exploitation. Some Sri Lankan children are trafficked internally to work as domestics and for sexual exploitation.

The Government has ratified ILO Convention 182 on the elimination of the worst forms of child labor. Sri Lanka was in the process of identifying these forms of child labor that existed in the country during the year.

The law provides for penalties for trafficking in women including imprisonment for two to 20 years, and a fine. For trafficking in children, the law allows imprisonment of five to 20 years, and a fine.

Internal trafficking in male children was also a problem, especially from areas bordering the northern and eastern provinces. Protecting Environment and Children Everywhere (PEACE), a domestic NGO, estimated that in 2003 there were 6,000 male children between the ages of 8 and 15 years who were engaged as sex workers both at beach and mountain resorts. Some of these children were forced into prostitution by their parents or by organized crime (see Section 5). PEACE also reports that an additional 7,000 young men aged 15 to 18 years are self-employed prostitutes; however, some organizations believe the PEACE numbers to be inflated.

The NCPA has adopted comprehensive national policy and a national plan to combat the trafficking of children for exploitative employment. The project was part of a regional project funded by the ILO. On a local level, in October 2002, the police opened an office to work as

part of the NCPA in children's issues, including trafficking in children. The country had a reputation in the past as a destination for foreign pedophiles. This problem appears to have declined significantly because of improved law enforcement by the Government. In addition, increased publicity on the issue seems to have worked to scare off foreign pedophiles. Child sexual exploitation by locals and by foreign pedophiles still continued, however.

The Government has undertaken several initiatives to provide protection and services to victims of internal trafficking, including supporting rehabilitation camps for victims. In addition, the Government has initiated some awareness campaigns to educate women about the dangers of trafficking; however, most of the campaigns are through local and international NGOs and somewhat through the Bureau of Foreign employment.

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